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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,341	04/15/2005	Dieter Fischer	ZAHFRI P734US	8220
20210	7590	07/13/2007	EXAMINER	
DAVIS & BUJOLD, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301			LEWIS, TISHA D	
ART UNIT		PAPER NUMBER		
3681				
MAIL DATE		DELIVERY MODE		
07/13/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/531,341	FISCHER, DIETER
	Examiner	Art Unit
	TISHA D. LEWIS	3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 3-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 5 and 6 is/are allowed.
- 6) Claim(s) 3 and 4 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

The following is a response to the amendment received on April 19, 2007 which has been entered.

### ***Response to Amendment***

Claims 3-6 are pending in the application. Claims 5 and 6 are newly added.

-The objection to the specification has been withdrawn due to applicant correcting the typographical error on page 3.

### ***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive. As to applicant's argument about the DE reference not having the locking device actuated by the second set of valves, the currently amended claim 3 doesn't disclose that the locking device is actuated by the second set of valves (as in claim 5), but only that the device is connected to the first valve of the second set of valves.

As to applicant's argument about the combination of the DE reference with Newbigging, this was used as a secondary reference to show that it is well known in the art to have a mechanical device used to lock reduction ratios as well as increasing ratios although it doesn't have all the structures of the present invention, the primary reference does and also it would be obvious to use an electrically controlled locking mechanism as in Newbigging in a pneumatic transmission since the primary reference (and present invention) is an electro-pneumatic transmission which means that it is electronically controlled also.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 10029497A1 in view of Newbigging ('893). DE discloses an electro-pneumatic switching unit having one splitter group transmission (12) pneumatically switched via a first set of valves (36, 38), one range change group transmission (14) pneumatically switched via a second set of valves (44, 46) which can be manually preselected by a vehicle driver on a gear lever (16), one locking device (54, 56) which is a mechanical device for mechanically preventing the manually switching of illegal speed increasing ratios and one device (30, 42, 64) for preventing manual shifts wherein the locking device (Figure 6) is pneumatically connected to the first valve (44) and provides a slow switching position.

DE does not disclose the device (30, 42 and 64) preventing pneumatic switching of the transmission to inadmissible ratios.

Newbigging discloses a transmission wherein a blocking arrangement is used to prevent pneumatic downshift switching (column 7, line 45) of the range transmission.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide DE with a blocking arrangement in view of Newbigging

to provide a backup to the locking device of DE to avoid damaging engine and clutch at high speeds.

***Allowable Subject Matter***

Claims 5 and 6 are allowed.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TISHA D. LEWIS whose telephone number is 571-272-7093. The examiner can normally be reached on M-F 7:30 AM TO 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHARLES A. MARMOR can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tdl  
July 8, 2007

*Tisha Lewis*  
TISHA LEWIS  
PRIMARY EXAMINER  
AU 3681 7/8/07